

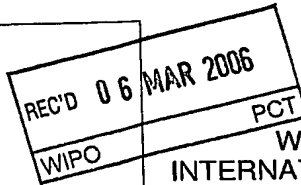
PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220



WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet).

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2005/017292

International filing date (day/month/year)
17.05.2005

Priority date (day/month/year)
17.05.2004

International Patent Classification (IPC) or both national classification and IPC
A61K9/10

Applicant
IVAX CORPORATION

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/017292

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
Industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1,2,13,15-17
Inventive step (IS)	Yes: Claims	
	No: Claims	1-17
Industrial applicability (IA)	Yes: Claims	1-17
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/US2005/017292

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: US-A-6 066 292 (PURWAR ET AL) 23 May 2000 (2000-05-23)
- D2: US-A-5 993 781 (SNELL ET AL) 30 November 1999 (1999-11-30)
- D3: US 2003/103864 A1 (MCAFFER IAN G.C ET AL) 5 June 2003 (2003-06-05)
- D4: US 2002/065256 A1 (KARLSSON ANN-KRISTIN ET AL) 30 May 2002 (2002-05-30)
- D5: US-B1-6 464 958 (BERNINI EVA ET AL) 15 October 2002 (2002-10-15)

Lack of novelty:

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 1,2,13,15-17 is not new in the sense of Article 33(2) PCT.

Documents D1 and D2 disclose a method for sterilization of a glucocorticosteroid and a sterile aqueous suspension as defined in claims 1, 2, 15 and 16.

Documents D3 and D4 disclose a method for sterilization of a glucocorticosteroid and a sterile aqueous suspension as defined in claims 2 and 15. Moreover, D3 discloses the subject-matter of claims 1, 13, 16 and 17. See in particular the indicated passages in the search report.

Lack of inventive step:

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-17 does not involve an inventive step in the sense of Article 33(3) PCT.

The problem to be solved by the present invention is to provide a sterilization method of glucocorticosteroids in suspension avoiding unfavourable changes in the drug profile. This has been presently achieved by heating the suspension of glucocorticosteroids according to claims 1, 2 and 13.

Documents D1 and D3 teach heat sterilization of suspensions comprising

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glucocorticosteroids. The application of wet steam for sterilizing has been taught in D1, e.g. on column 1, l. 23-27, column 2, l. 40-46 and column 7, 1st §. The use of budesonide and sterilization parameters as in the present invention are evident from the disclosures of D3. Accordingly, the solution proposed in present claims cannot be considered as involving an inventive step (Article 33(3) PCT, since being proposed in a similar manner in D1 and D3.

Dependent claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step.